Decision 02-01-067 January 23, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California Water Service Company (U 60W), A Corporation, for an Order Authorizing It to Increase Rates Charged for Water Service in the Palos Verdes District Establishing the "Base Year 2000" Revenue Requirements. And Related Matters.	A.00-09-009 A.00-09-010 A.00-09-011 A.00-09-012 (Filed September 11, 2000)

ORDER DENYING REHEARING OF DECISION 01-08-039

I. SUMMARY

In this decision, we deny the application for rehearing sought by California Water Service Company (CalWater) for rehearing of Decision (D.)01-08-039 (the "Decision"). In that decision, we approved a stipulation between the Water Branch of the Commission's Office of Ratepayer Advocates (ORA) and CalWater covering issues in Applicant's general rate increase applications for its Bakersfield and South San Francisco Districts, base year 2000 revenue requirements for water service in the Palos Verdes and Hermosa-Redondo Districts, and the revenue requirements for General Office. We did not authorize rate increases for the Palos Verdes District, which was the only contested issue in this proceeding and is also the sole basis for the present application for rehearing.

II. DISCUSSION

Rule 51.1(e) of our Rules of Practice and Procedure provides that the Commission will not approve settlements or stipulations, whether contested or uncontested, unless they are reasonable in light of the whole record, consistent with law, and in the public interest. In fact, we specifically found on pages 10-11 of the Decision that the unopposed stipulation entered into in this proceeding was reasonable, with the

exception of the increase in rates for the Palos Verdes District for the years 2001-2004. The only issue presented in this application is whether our rejection of the stipulation for a rate increase for Palos Verdes District constitutes error. This question was also the sole contested issue during the hearing in this proceeding and was identified as such by the assigned Administrative Law Judge at the prehearing conference, was briefed by the parties and was also covered in the parties' comments on the Proposed Decision. In fact, we have already considered and rejected the same arguments that Applicant is making here.

In the Decision, we rejected the stipulation with regard to the Palos Verdes District rate increases because we found that it was precluded by former D.00-05-047, which approved a merger of Applicant with Dominguez Water Company, Kern River Valley Water Company, and Antelope Valley Water Company. As we pointed out at page 12 of the Decision, under the rate case plan specified in D.00-05-047, Applicant was required to file a base year 2000 revenue requirement for its Palos Verdes and Hermosa-Redondo Districts in 2000. The base year 2000 revenue requirement was to be used in assessing merger-related synergies for the combined district following approval of the merger. We therefore deferred a general rate application for the combined district until 2001, for rates effective in 2002. In this way, the synergies resulting from the combination of the companies would be assessed and reflected in the adopted revenue requirement. Further, although the rates for the former districts would be set individually to reflect certain different historical costs, all three of the former districts would benefit from merger-related synergies. (D.01-08-039, pg. 13.) However, Applicant did not follow these instructions. Instead, Applicant filed in this consolidated proceeding for rates effective on a stand-alone basis for 2001, 2002, 2003 and 2004.

Applicant first argues that the merger decision does not contain language specifically forbidding it from filing, in 2000, for a Palos Verdes rate increase effective in 2001. However, as we pointed out in the Decision, Applicant and ORA are incorrect in stating that such filing is not precluded by the merger decision. That decision sets up a new regulatory framework, post merger, for the combined districts. As we pointed out

above, under that framework, general rate cases for the combined district were to be filed in 2001 and 2004 for rates effective in 2002 and 2005, respectively. Because Applicant did not request authority in the merger application to file a stand-alone general rate increase for its former Palos Verdes District in 2000 for rates effective in 2001, there was no reason for the merger decision to specifically address such a filing. (D.01-08-039, pg. 13.) The absence of this preclusion is therefore not dispositive of the issue.

Applicant again argues that the merger decision does not bar a rate change for Palos Verdes in 2001, because five months after we issued the merger decision, the Commission authorized Dominguez Water Company to raise rates in some of its districts, including the South Bay Division that is being combined with Applicant's historic Palos Verdes and Hermosa-Redondo Districts. Further, Applicant argues that Decision D.00-10-027 acknowledged the fact that the CalWater-Dominguez merger had been previously approved when we stated "Any authority granted in this decision to Applicants should be understood to apply to their successors in interest if and when the merger has been consummated." (Application, pg. 7.) Applicant's argument is that if our interpretation of the merger decision were correct, then we would have had no choice in D.00-10-027 but to flatly reject the proposed rate increase for the Dominiguez's South Bay Division. However, as we pointed out in the Decision at page 14, the application that lead to D.00-10-027 was not precluded by the merger decision because it was filed approximately a year before the merger decision was issued. However, A.00-09-009 for Palos Verdes District was filed after the merger decision, and was, therefore, precluded. Applicant's further argument that the consequences of such an approach will likely lead to confusion because parties to Commission proceedings will be free to ignore all Commission decisions and precedent issued after the commencement of a particular proceeding is completely unsupported and without merit.

Applicant alleges that the parties to the merger proceeding did not intend that they would be precluded from seeking a rate increase for Palos Verdes District. The argument is that if there had been such an intent, the applicants in the merger decision would have listed such as a potential benefit of the merger. However, whatever the

parties to the merger proceeding may or may not have intended, our intent in the merger decision itself, as pointed out clearly in the Decision, was otherwise. We reiterate, as we have previously held, our intent in the merger decision was to set up a new regulatory framework as described above, under which Applicant was precluded from filing for a rate increase for its Palos Verdes District in this proceeding.

III. CONCLUSION

Because Applicant has failed to demonstrate factual or legal error in the decision, the application for rehearing is denied.

Therefore, **IT IS ORDERED** that:

1. Rehearing of D.01-08-039 is denied.
2. This proceeding is closed.

This order is effective today.

Dated January 23, 2002 at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners